

REMARKS

Claims 23-24, 33-35 and new claims 44-47 will be pending upon entry of the present amendments. Claims 1-22, 25-32 and 36-43 have canceled without prejudice, and new claims 44-47 have been added. The amendments are supported throughout the specification, for example, from pages 14-16. Applicant respectfully requests allowance of the amended claims in view of the remarks herein.

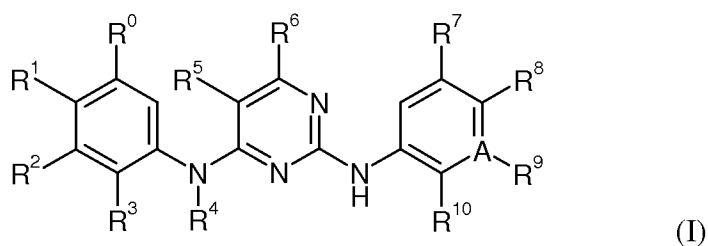
Rejections under 35 U.S.C. § 112

Claim 36 is rejected under 35 U.S.C. § 112, first paragraph, as allegedly being non-enabled. To expedite prosecution, claim 36 has been canceled without prejudice, rendering this rejection moot.

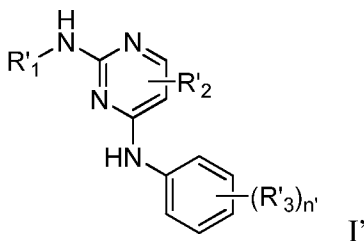
Obviousness-type Double Patenting

Claims 23-24, 33-37 and 43 are rejected under a provisional obviousness-type double patenting, as allegedly being unpatentable over claims 1-2, 4 and 7-9 of co-pending application no. 10/507,060. Applicant respectfully requests withdrawal of this rejection in view of the amended claims.

The amended claims are drawn to compounds of Formula (I):



wherein R³ is -S(O)₀₋₂R₁₃ or -C(O)NR₁₂R₁₃; and R¹⁰ is a substituent. New claims 44-47 are drawn to compounds of Formula I'



wherein R'₃ is selected from propyl-sulfonyl, ethyl-amino-carbonyl, cyclohexyl-sulfonyl, and isopropyl-sulfonyl; and R'₁ is selected from phenyl, pyridinyl, pyrazolyl and pyrimidinyl, wherein any aryl or heteroaryl of R'₁ is substituted by 2 to 3 radicals.

The claims in co-pending application no. 10/507,060 neither teach nor suggest a compound of Formula (I) or I' of the present application. Thus, Applicant submits that the amended claims are non-obvious, and respectfully requests that this rejection be withdrawn.

Claims 23-24, 33-37 and 43 are also rejected under a provisional obviousness-type double patenting, as allegedly being unpatentable over claims 1-11 and 13-22 co-pending application no. 10/549,250. To expedite prosecution, Applicant submits a terminal disclaimer in compliance with 37 C.F.R. § 1.321(c), and respectfully requests that this rejection be withdrawn.

Conclusion

In view of the foregoing, Applicant submits that pending claims 23-24, 33-35 and 44-47 are now allowable. If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned attorney at 858-812-1539.

In the event that the U.S. Patent and Trademark Office determines that an extension and/or other relief is required, Applicant petitions for any required relief including extensions of time and authorize the Assistant Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to **Deposit Account No. 50-1885** referencing docket No. PAT032910B-US-PCT.

Respectfully submitted,
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